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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,556	08/01/2003	Rick A. Briggs	P-10503-US	2579
27948	7590	03/23/2005	EXAMINER	
LAW OFFICES OF JONATHAN A. BARNEY, ESQ. 312 SIGNAL ROAD SUITE 200 NEWPORT BEACH, CA 92663			NGUYEN, KIEN T	
		ART UNIT		PAPER NUMBER
				3714

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/632,556	BRIGGS, RICK A. <i>ED</i>	
	Examiner Kien T. Nguyen	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 04 January 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 2-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2-28 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weston et al U.S. Patent 6,761,637.

Weston et al disclosed a game and method of playing a game using RFID tracking device comprising a play structure (100) which could be in a wide variety of possible play environments (see column 7), a plurality of RFID tags (720) disposed in, on, or around the play structure; one or more game consoles (see column 19, lines 37-39) distributed in, on, or around the play structure and being adapted to sense, read, or communicate on or more of the electronically identifiable tags; at least one of the game consoles being pre-programmed to play one or more games using the electronically identifiable tags, whereby play participants are challenged to find objects, clues, or other information and use the objects, clues or other information to solve various puzzles or problems that present encumbrances to advancement in the game (column 18, lines 35-41) (applicant's claims 2, 6, 10, 11, 17, 21, 22, 24, 25). At least one of the tags comprises a passive RFID tag having no battery (see column 20, line 29) (applicant's claim 7). At least one of the tags is molded or embedded into a plastic substrate (see column 10, lines 25-28) (applicant's claim 8). At least one of the games comprises a treasure hunt or quest game wherein one of the objects of the game is to find one or

more of the tags to solve a mystery or complete a puzzle or quest (column 18, lines 18-59) (applicant's claims 12, 13, 26, 27). The tags are adapted to be worn by each participant for purposes of identifying and tracking participants playing in one of the games (column 9, lines 59-67) (applicant's claim 14). At least one of the tags contains an associated unique UPIN (see column 10, lines 15-16) (applicant's claims 16, 23).

It is noted that Weston et al failed to specifically disclose the play structure comprises a pool or other body of water such as swimming pool, water slides, a lazy river water ride as set forth in claims 2, 3-5, 17-20. However, throughout the specification, Weston et al clearly taught or suggested that the play structure could be in any type of play area (see column 6, lines 64 to column 7, lines 1-35). Accordingly, it would have been a matter of design choice to incorporate the game play using RFID tags and tracking device into a well know water park with various activities such as swimming pool, water slides, and/or lazy river ride for the purpose of expanding the use of the game play using RFID technology.

Regarding claim 9, although Weston et al failed to specifically mention an associated unique UOIN for uniquely identifying each of the electronically identifiable objects, the tags of Weston et al are designed to identifying person as well as a group (see column 10, lines 13-28). Thus it is inherent that the tags of Weston et al are more than capable of being to identify objects.

Regarding claim 28, the disclosure of Weston et al and above explanations would constitute the obvious steps of carrying out the interactive water play as set forth therein.

***Response to Arguments***

Applicant's arguments with respect to claims 2-28 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (571) 272-4428. The examiner can normally be reached on 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kien T. Nguyen  
Primary Examiner  
Art Unit 3714

Ktn